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10/036,123	12/26/2001	Tomasz A. Matraszek	83836RLO	3425

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EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT PAPER NUMBER

2628

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,123

Applicant(s)

MATRASZEK ET AL.

Examiner

Gregory F. Cunningham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to communications of amendment received 02/13/2006.
2. The disposition of the claims is as follows: claims 1, 3 and 23-36 are pending in the application. Claim 1 is the only independent claim. Claim 2 has been cancelled. Claims 4 - 22 were previously withdrawn.

#### ***Claim Rejections - 35 USC § 112***

3. In view of the amended claims 112 rejections are withdrawn.

#### ***Claim Rejections - 35 USC § 101 and 102***

4. In view of amended and cancelled claims and review of cited references, 101 and 102 rejections are withdrawn.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 25, 28, 29, 31, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1).

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A. FotoFile discloses claim 1, “A method of arranging a plurality of visual images in an album, based on affective information which classifies the visual images [Another pre-defined metadata attribute, called favorite, can be used to tag certain images as the “best” images in a collection, e.g. my favorite photos from the Grand Canyon vacation.

In order to match the user’s expectations for how pictures are arranged, FotoFile uses a photo album as the primary organizational metaphor. - Wherein the tag ‘favorite’ corresponds to affective information], comprising the steps of:

a) electronically storing affective information that classifies a first digital image from a plurality of stored digital images, the classification indicating that the first digital image is more important than a second digital image from the plurality of digital images [Another pre-defined metadata attribute, called favorite, can be used to tag certain images as the “best” images in a collection, e.g. my favorite photos from the Grand Canyon vacation.

- although FotoFile uses favorite to tag certain images as the ‘best’ images in a collection, it would have been obvious to one of ordinary skill in the art to use favorite to tag certain images as the ‘more important’ images in a collection];

b) using the stored affective information to determine that the first digital image is more important than the second digital image [disclosed supra for element (a)]; and

c) producing an album of visual images from the plurality of stored digital images wherein the size of the first visual image produced using the first digital image is larger than the size of the second visual image produced using the second digital image” as detailed.

However FotoFile does not appear to disclose “producing an album of visual images from the plurality of stored digital images wherein the size of the first visual image produced using the first digital image is larger than the size of the second visual image produced using the

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second digital image”, but Himmel does in [para. 0017, at ‘For example, when personalizing the album 20, the digital images file may alter the image to black & white, sepia or a combination of color and black & white. Furthermore, the digital image file may be altered by adding text, eliminating people or objects, superimposing the main subject in an entirely different location (such as a landmark scene), etc. In the exemplary embodiment shown in FIG. 2, the digital image file was enlarged to create a single panoramic view of the main photograph.

- wherein ‘the digital file was enlarged to create a single panoramic view’ corresponds to “the size of the first visual image produced using the first digital image” and the remainder of digital files in the album corresponds to “the second visual image produced using the second digital image”]

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

B. FotoFile and Himmel disclose claim 3, “The method of claim 1, wherein the first visual image is printed in a prominent location in the album” supra for claim 1 and furthermore by FotoFile at ‘Furthermore, in order to simplify album retrieval, the user can assign a representative image for the album cover to aid in selection from a list. Having a cover image that is representative of the album in the user’s mind enables fast visual recognition, rather than relying on information recall.

- wherein album cover corresponds to “prominent location in the album”.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having a cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single

panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

C. FotoFile and Himmel disclose claim 23, “The method of claim 3, wherein the prominent location is in the center of the album page” supra for claim 3. Although they do not appear to explicitly disclose “wherein the prominent location is in the center of the album page”, Himmel depicts in Fig. 3, an image on the back surface, spine and front surface of the album a panoramic view. Notice the ship located in the center of the back surface of the album, wherein when folded along the spine, the back surface of the album is the same size as an album page. Consequently it would have been obvious for one of ordinary skill in the art at the time of the invention to locate the prominent position for an image in the center of the album page.

D. FotoFile and Himmel disclose claim 25, “The method of claim 1, wherein the first digital image is processed to emphasize its importance” supra for claim 1.

E. FotoFile and Himmel disclose claim 28, “The method of claim 1, “wherein the classification includes information for a plurality of users” supra for claim 1 and furthermore in FotoFile at ‘Users can assign arbitrary values within the defined metadata types, e.g. annotating the location of a photo as “Grand Canyon”.’

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having a cover image representative of the album and users can assign arbitrary values within the defined metadata types disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

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F. FotoFile and Himmel disclose claim 29, “The method of claim 28, wherein the album is customized for a particular user” supra for claim 28 and furthermore in FotoFile at ‘The central pane is an Image Palette, which provides functionality analogous to a light table. The user can arrange, delete, and display media objects at different resolutions in the Image Palette. The palette is also used to display search results and newly imported materials, and it also serves as a temporary storage area for creating albums. The rightmost pane is an Album Editor that provides tools for composition of digital albums, which can then be “played back” or sent electronically to others. In order to match the user’s expectations for how pictures are arranged, FotoFile uses a photo album as the primary organizational metaphor. A photo album is a metaphor with which people can quickly relate when thinking about organizing photos, and therefore the mental model relies on user intuition rather than explicit instruction. In FotoFile, an Album is a persistent collection of media objects, which are arranged on “pages”. Each image is also accompanied by annotations, which can be in the form of text, audio, or video. Furthermore, in order to simplify album retrieval, the user can assign a representative image for the album cover to aid in selection from a list. Having a cover image that is representative of the album in the user’s mind enables fast visual recognition, rather than relying on information recall.’ and

‘Whereas with conventional photography, storytelling is typically done using prepared albums and collages, whose structures are fixed, digital photography allows the user to employ more dynamic collections of -photos in storytelling. The user can arrange small groups of photos into segments that correspond to single narrative episodes. These segments can be reused in different situations and combined in different ways, depending upon the interaction between storyteller and audience. The model of usage is of two or more people sitting together by a computer, much in the same way that people sit together and go through photo albums.’

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having a cover image representative of the album and users can assign arbitrary values within the defined metadata types disclosed by

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FotoFile in combination with enlarging a digital file to create a single panoramic view as disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

G. FotoFile and Himmel disclose claim 31, “The method of claim 1, wherein the classification includes identification of favorite images by some reaction of a user” supra for claim 1, wherein ‘users can assign’ corresponds to “some reaction of a user”.

H. FotoFile and Himmel disclose claim 34, “The method of claim 1, wherein the classification includes providing a user interface to enable a user to indicate important images” supra for claim 1 and furthermore by FotoFile at ‘Symmetry between Annotation and Search Since we were designing FotoFile for home usage, we designed the annotation and search interfaces to use the same basic mechanism. There is a visual and gestural symmetry between the actions for annotation and search. Users only need to learn one tool for both activities. To annotate content, the user selects one or more metadata attribute/value pairs, and presses the Annotate button. At that time, the selected attributes are applied to :a11s elected media objects. To retrieve content, the user again selects one or more attribute/value pairs, and presses the Search button.’

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album, having a cover image representative of the album, users can assign arbitrary values within the defined metadata types and user interface disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view as disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

J. FotoFile and Himmel disclose claim 35, “The method of claim 1, wherein the album is produced using a hardcopy printer” supra for claim 1 and furthermore by Himmel in [para. 0019



at 'In the preferred embodiment, the reproduction is created by printing the digital image file using a 12-color wide format ink jet printer, which can accommodate a material sheet 18 of up to 48" wide. The printer, while outputting 300 dpi, is able to produce a high quality "photographic" image by virtue of the multitude of inks and unlimited range of hues, densities, shades, etc.]

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album, having a cover image representative of the album and users can assign arbitrary values within the defined metadata types disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view and printing images as disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004].

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 1 and 3 above, and further in view of Ezawa et al., (US 2004/0105125 A1), hereinafter Ezawa.

A. FotoFile and Himmel disclose claim 24, "The method of claim 1, wherein a surround is used to emphasize the first visual image" supra for claim 1. However they do not appear to disclose "wherein a surround is used to emphasize the first visual image", but Ezawa does in [para. 0079 wherein frame image is surrounded by a bold frame].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having a cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single

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panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with frame image is surrounded by a bold frame as disclosed by Ezawa and motivated to combine the teachings because it would provide for an improved categorization function for categorizing a plurality of images as revealed by Ezawa in [para. 0003].

8. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 25 above, and further in view of Plummer, (US 4,689,696 A), hereinafter Plummer.

A. FotoFile and Himmel disclose claim 26, “The method of claim 25, wherein the first digital image is processed to increase its sharpness” and claim 27, “The method of claim 25, wherein the first digital image is processed to increase its color saturation” supra for claim 25. However they do not appear to disclose “wherein the first digital image is processed to increase its sharpness” and “wherein the first digital image is processed to increase its color saturation”, but Plummer does in col. 1, lns. 30-38.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having metadata attribute “favorite” and cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with improving sharpness and/or color saturation as disclosed by Plummer and

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motivated to combine the teachings because it would provide an advantage using electronic imaging as revealed by Plummer in col. 1, lns. 29-30.

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 25 above, and further in view of Mattes, (US 6,038,295).

A. FotoFile and Himmel disclose claim 30, “The method of claim 1, wherein the classification further includes specifying a time or period within a range of times that the classification was performed” supra for claim 25. However they do not appear to disclose “wherein the classification further includes specifying a time or period within a range of times that the classification was performed”, but Mattes does in col. 3, lns. 59-65, at ‘converting the time and date information into a form usable by the server, the received digital images may be stored in lists or directories in the server which are classified according to the time at which the image was acquired or the time of the transmission of the digital image, which information is transmitted along with the digital image to the server or obtained upon transmission.’

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having metadata attribute “favorite” and cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with classifying according to time and date as disclosed by Mattes and motivated

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to combine the teachings because it would provide classification information to be taken into consideration as images are stored as revealed by Mattes in col. 2, lns. 32-34.

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 1 above, and further in view of Chapoulaud et al., (US 2004/0126008 A1), hereinafter Chapoulaud.

A. FotoFile and Himmel disclose claim 32, “The method of claim 1, wherein the classification includes monitoring a facial expression of a user” supra for claim 1. However they do not appear to disclose “wherein the classification includes monitoring a facial expression of a user”, but Chapoulaud does in [para. 0279].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having metadata attribute “favorite” and cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with classifying according to facial recognition as disclosed by Chapoulaud and motivated to combine the teachings because it would provide for classification information to be taken into consideration as images are stored as revealed by Chapoulaud in [para. 0279 at ‘includes image analysis for any image having features that can be extracted and used to classify’].

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11. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 1 above, and further in view of Knittel, (US 5,959,631).

A. FotoFile and Himmel disclose claim 33, “The method of claim 1, wherein the classification includes monitoring physiology of a user” supra for claim 1. However they do not appear to disclose “wherein the classification includes monitoring physiology of a user”, but Knittel does in col. 4, lns. 15-44, wherein classification includes in human physiology, bones, tendons, muscles, and epidural layers.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having metadata attribute “favorite” and cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with classifying physiology as disclosed by Knittel and motivated to combine the teachings because it would reduce the costs of a volume visualization system as revealed by Knittel in col. 2, lns. 5-9.

12. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over FotoFile: A Consumer Multimedia Organization and Retrieval System, hereinafter FotoFile, and further in view of Himmel (US 2002/0136590 A1), as applied to claim 1 above, and further in view of Borecki et al., (US 2002/0023023 A1), hereinafter Borecki.

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A. FotoFile and Himmel disclose claim 36, “The method of claim 35, further including the step of shipping the album to a designee” supra for claim 35. However they do not appear to disclose “further including the step of shipping the album to a designee”, but Borecki does in [para. 0075].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply digital images in an album and having metadata attribute “favorite” and cover image representative of the album disclosed by FotoFile in combination with enlarging a digital file to create a single panoramic view disclosed by Himmel, and motivated to combine the teachings because it would customize the album as revealed by Himmel in [para. 0004], and further coupled with shipping to the user’s designee as disclosed by Borecki and motivated to combine the teachings because it would use temporary address codes to direct the shipping of the packages as revealed by Borecki in [para. 0004].

### ***Response to Arguments***

13. Applicant's arguments with respect to claim 2/13/2006 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Responses***

15. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

#### ***Inquiries***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The Central FAX Number for the organization where this application or proceeding is assigned is **571-273-8300**.

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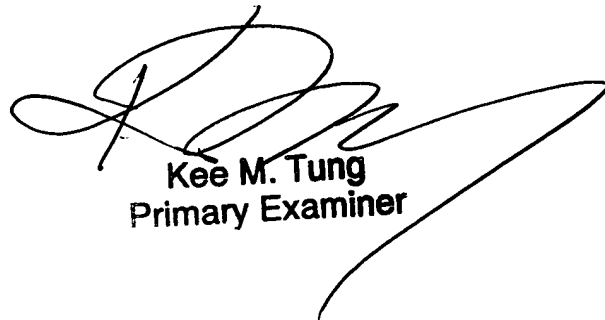
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Gregory F. Cunningham  
Examiner  
Art Unit 2628

gfc

5/4/2006



**Kee M. Tung**  
Primary Examiner